

TO ESTABLISH THE NATIONAL AVIATION HERITAGE
AREA, AND FOR OTHER PURPOSES

NOVEMBER 17, 2003.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 280]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 280) to establish the National Aviation Heritage Area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**TITLE I—NATIONAL AVIATION HERITAGE
AREA**

SEC. 101. SHORT TITLE.

This title may be cited as the “National Aviation Heritage Area Act”.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Few technological advances have transformed the world or our Nation’s economy, society, culture, and national character as the development of powered flight.

(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation’s leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents: "Study of Alternatives: Dayton's Aviation Heritage", "Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study", "Dayton Aviation Heritage General Management Plan", "Dayton Historic Resources Preservation and Development Plan", and Heritage Area Concept Study, demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal government to preserve, protect, and develop the Heritage Area for public benefit.

(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio.

(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

SEC. 103. DEFINITIONS.

For purposes of this title:

- (1) **BOARD.**—The term “Board” means the Board of Directors of the Foundation.
- (2) **FINANCIAL ASSISTANCE.**—The term “financial assistance” means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.
- (3) **HERITAGE AREA.**—The term “Heritage Area” means the National Aviation Heritage Area established by section 104 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.
- (4) **MANAGEMENT PLAN.**—The term “Management Plan” means the management plan for the Heritage Area developed under section 106.
- (5) **MANAGEMENT ENTITY.**—The term “management entity” means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).
- (6) **PARTNER.**—The term “partner” means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.
- (7) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (8) **TECHNICAL ASSISTANCE.**—The term “technical assistance” means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

SEC. 104. NATIONAL AVIATION HERITAGE AREA.

- (a) **ESTABLISHMENT.**—There is established in the States of Ohio and Indiana, the National Aviation Heritage Area.
- (b) **BOUNDARIES.**—The Heritage Area shall include the following:
 - (1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, Champaign, Shelby, and Auglaize Counties in Ohio.
 - (2) The Neil Armstrong Air & Space Museum, Wapakoneta, Ohio.
 - (3) Sites, buildings, and districts within the core area recommended by the Management Plan.
- (c) **MAP.**—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.
- (d) **MANAGEMENT ENTITY.**—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

SEC. 105. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

- (a) **AUTHORITIES.**—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this title to—
 - (1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;
 - (2) hire and compensate staff; and
 - (3) enter into contracts for goods and services.
- (b) **DUTIES.**—The management entity shall—
 - (1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;
 - (2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area;
 - (3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;
 - (4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;
 - (5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;
 - (6) assist units of government and nonprofit organizations in—
 - (A) establishing and maintaining interpretive exhibits in the Heritage Area;
 - (B) developing recreational resources in the Heritage Area;
 - (C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and
 - (D) restoring historic buildings that relate to the purposes of the Heritage Area;

- (7) conduct public meetings at least quarterly regarding the implementation of the Management Plan;
- (8) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

(9) for any year in which Federal funds have been received under this title—

(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

(c) **USE OF FEDERAL FUNDS.**—

(1) **IN GENERAL.**—The management entity shall not use Federal funds received under this title to acquire real property or an interest in real property.

(2) **OTHER SOURCES.**—Nothing in this title precludes the management entity from using Federal funds from other sources for authorized purposes.

SEC. 106. MANAGEMENT PLAN.

(a) **PREPARATION OF PLAN.**—Not later than 3 years after the date of the enactment of this title, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

(b) **CONTENTS.**—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

(2) An assessment of cultural landscapes within the Heritage Area.

(3) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this title.

(4) An interpretation plan for the Heritage Area.

(5) A program for implementation of the Management Plan by the management entity, including the following:

(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

(B) Assisting partners planning for restoration and construction.

(C) Specific commitments of the partners for the first 5 years of operation.

(6) The identification of sources of funding for implementing the plan.

(7) A description and evaluation of the management entity, including its membership and organizational structure.

(c) **DISQUALIFICATION FROM FUNDING.**—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this title, the management entity shall be ineligible to receive additional funding under this title until the date on which the Secretary receives the proposed Management Plan.

(d) **APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.**—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this title not later than 90 days after receiving such proposed Management Plan.

(e) **ACTION FOLLOWING DISAPPROVAL.**—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(f) **APPROVAL OF AMENDMENTS.**—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this title may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

SEC. 107. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) **TECHNICAL AND FINANCIAL ASSISTANCE.**—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or non-

reimbursable basis, and financial assistance to the Heritage Area to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title;

(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 108. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

SEC. 109. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 110. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title there is authorized to be appropriated \$10,000,000, except that not more than \$1,000,000 may be appropriated to carry out this title for any fiscal year.

(b) FIFTY PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

SEC. 112. SUNSET PROVISION.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date that funds are first made available for this Act.

TITLE II—WRIGHT COMPANY FACTORY STUDY**SEC. 201. STUDY AND REPORT.****(a) STUDY.—**

(1) **IN GENERAL.**—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park.

(2) **CONTENTS.**—The study shall include an analysis of alternatives for including the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park that detail management and development options and costs.

(3) **CONSULTATION.**—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

(b) REPORT.—Not later than 3 years after funds are first made available for this section, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under this section.

PURPOSE OF THE BILL

The purpose of H.R. 280 is to establish the National Aviation Heritage Area, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The National Aviation Heritage Area will contain resources associated with the development of the aviation and aerospace industry in America. The intent of H.R. 280 is to promote heritage tourism and develop educational and cultural programs for the public while preserving certain lands, structure, facilities and sites within the heritage area. The legislation names an Ohio nonprofit, The Aviation Heritage Foundation, Incorporated, as the “management entity.” A management plan must be developed and approved by the Secretary of the Interior. The plan will provide for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Area. The plan must also include an inventory of the resources contained in the core part of the Area, including the Dayton Aviation Heritage Historical Park, and other property in the Area that is related to the themes of the Area and that should be preserved, restored, managed, or maintained because of its significance. H.R. 280 authorizes appropriations of \$10,000,000, although not more than \$1,000,000 may be spent in any fiscal year with 50% cap on the federal share of the activity cost. Finally, the bill directs the Secretary to conduct a special resource study, updating a previous report, detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation National Historical Park.

COMMITTEE ACTION

H.R. 280 was introduced on January 8, 2003, by Congressman David Hobson (R–OH). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On September 16, 2003,

the Subcommittee held a hearing on the bill. On October 21, 2003, the Subcommittee met to mark up the bill. Congressman George Radanovich (R-CA) offered an amendment in the nature of a substitute to require that private landowners whose property is located within the boundary of the heritage area have their property excluded from within the boundary upon written request to the management entity. The amendment also required that the owner of any private property located within the boundary of the heritage area be contacted in writing and provided written consent for such inclusion if his property is to be governed by the management plan for the heritage area. The amendment was agreed to by unanimous consent. The bill, as amended, was then forwarded to the Full Resources Committee by unanimous consent. On October 29, 2003, the Full Resources Committee met to consider the bill. Mr. Radanovich offered an amendment in the nature of a substitute to further refine the private property rights protections in the bill. The amendment was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to establish the National Aviation Heritage Area, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 10, 2003.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 280, the National Aviation Heritage Area Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 280—National Aviation Heritage Area Act

H.R. 280 would establish the National Aviation Heritage Area (NHA) in Ohio. The bill would designate the Aviation Heritage Foundation as the management entity for the proposed NHA. Under the bill, the foundation would develop a management plan to provide for the protection, development, and management of cultural and other resources of the NHA. The Department of the Interior (DOI) would provide technical and financial assistance to the foundation for developing and implementing that plan. For these purposes, the bill would authorize the appropriation of \$10 million, not to exceed \$1 million annually. Finally, the bill would require DOI to complete a special resource study on alternatives for incorporating the Wright Company factory within the Dayton Aviation Heritage National Historical Park in Ohio.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 280 would cost \$10 million over the next 10 to 15 years. Such amounts would be used to cover a portion of the costs of establishing, operating, and interpreting the heritage area. Additionally, we estimate that conducting the special resource study on the Wright Company factory would cost less than \$200,000 over the next three years, assuming the availability of appropriated funds. Enacting H.R. 280 would have no effect on revenues or direct spending.

H.R. 280 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

